

## EXHIBIT 4

1

Tuesday, 23rd January 2007

2 (2.00 pm)

3 MR JUSTICE MACKAY: Yes, Mr Hilliard.

4 MR HILLIARD: My Lord, I do not know if as before it might  
5 just help if I was to introduce the material to your  
6 Lordship briefly before calling Mr Kohlmann?

7 MR ROBERTSON: Perhaps he could do the introducing of the  
8 material. I do not want to delay him.

9 MR JUSTICE MACKAY: Well, before anyone introduces any  
10 material, can I just understand what the exercise is we  
11 are engaged on? This is an exceptional procedure to  
12 establish on a voir dire the expertise of this witness.  
13 I have received from you an edited version of his report  
14 which indicates the areas you would want him to ask  
15 about if he was to qualify in my judgment as an expert  
16 witness with relevant evidence to give.

17 MR HILLIARD: Yes. It may be that the evidence is -- really  
18 all I wanted to say is that the emphasis may be on the  
19 latter, the relevant evidence to give, because as your  
20 Lordship will see I think from the material I have  
21 highlighted, I think almost without exception it does  
22 not in fact involve expressing an opinion at all.

23 MR JUSTICE MACKAY: Well --

24 MR HILLIARD: It is a question of dealing with the  
25 material --

1 MR JUSTICE MACKAY: The material that is in circulation in  
2 other places. I understand that entirely. I also  
3 understood Mr Robertson, before we got to that, to  
4 say: this man is not an expert of any sort in the sense  
5 that we look at expert witnesses. Is that still being  
6 contended, Mr Robertson?

7 MR ROBERTSON: Oh yes, it is.

8 MR JUSTICE MACKAY: Yes. Well then that is the first  
9 business for today; is it not?

10 MR ROBERTSON: Yes.

11 MR JUSTICE MACKAY: Then I need to consider, if I can find  
12 my note, what investigation I am embarking on; what am  
13 I looking for.

14 MR HILLIARD: Yes.

15 MR JUSTICE MACKAY: This is in section 10 of --

16 MR HILLIARD: Well it is 10-64.

17 MR JUSTICE MACKAY: There is that long quotation from  
18 a south Australian case; is there not?

19 MR HILLIARD: My Lord, that is absolutely right.

20 MR JUSTICE MACKAY: Mr Robertson, do you accept that is the  
21 ambit of this inquiry this afternoon?

22 MR ROBERTSON: Oh yes. Yes, yes.

23 MR JUSTICE MACKAY: It is not controversial, any of that?

24 MR ROBERTSON: No, I think Cross and Archbold set out the  
25 general principles and indeed we have set them out even

1 more shortly in our skeleton.

2 MR JUSTICE MACKAY: All right. So we look at that and then  
3 we say, if I am satisfied -- if I am not satisfied he  
4 qualifies as an expert that is the end of it. If he  
5 does, is the material that is proposed to go through  
6 with him relevant to issues in the case?

7 MR ROBERTSON: Yes.

8 MR JUSTICE MACKAY: Thank you. Sorry to be pedantic. Can  
9 I just get another piece of paper off my desk and give  
10 it to you without calling for comment.

11 These are the jury questions that were asked of the  
12 other case currently going on in this court. I asked  
13 for them out of interest. You may have seen them  
14 already, I do not know if you have.

15 MR ROBERTSON: No.

16 MR JUSTICE MACKAY: There are four copies, two for each  
17 side. Obviously they need adapting, but if you care to  
18 think about them overnight and let me have your views.

19 MR ROBERTSON: Thank you very much.

20 MR JUSTICE MACKAY: All right. Yes, sorry. On you go.

21 MR HILLIARD: Yes. Mr Kohlmann, please.

22 MR KOHLMANN (affirmed)

23 Examination-in-chief by MR HILLIARD

24 MR HILLIARD: Can you give us your full name, please?

25 A. My full name is Evan F Kohlmann.

1           and your politics exams?

2   A.   Essentially what I was attempting to do is fuse all of  
3       this together into one common stream. So essentially  
4       the work that I did for my thesis, I researched my  
5       thesis while at work. I used research that I had done  
6       at work in my thesis. When I was at law school I took  
7       courses I believed that would help me do forensic work  
8       and do analysis work in terms of terrorism, such as  
9       taking cybercrime seminars taught by investigators, by  
10      federal investigators at the University of Pennsylvania.

11   Q.   You have never been, for any lengthy period of time,  
12       under anyone's discipline; you have never been tutored,  
13       you have never been controlled or subject to peer  
14       review. Correct?

15   A.   No, I have been subject to peer review.

16   Q.   Your book is a book described as published by Berg  
17       Publishers?

18   A.   It is Oxford University Press, I believe.

19   Q.   That is a false statement, Mr Kohlmann; is it not?  
20       Oxford University Press? It was published by Berg?

21   A.   Which is an imprint of Oxford University Press.

22   Q.   No, it is an imprint of Oxford International Publishers,  
23       which is not Oxford University Press?

24   A.   Excuse me. The book itself was peer reviewed. In order  
25       to have it published by Berg I had to have it peer